



CITY OF NEWTON, MASSACHUSETTS

Planning and Development Board

April 9, 2012

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Marcia Johnson, Chairman of Zoning and Planning Committee and
Members of the Board of Aldermen
1000 Commonwealth Avenue
Newton, MA 02459

Dear Chairman Johnson and Members of the Board of Aldermen:

Prior to the public hearing of March 22, 2012 on the proposed zoning amendments docketed as #400-11 and #400-11(2), the Planning & Development Board (P & D Board) held its own public meeting on March 19, 2012 to review with staff its provisions. Subsequent to the hearing, the P & D Board presented a quorum at the ZAP working session of March 26, 2012 and deliberated at additional public meetings on April 2 and April 5, 2012. Before the Zoning & Planning Committee and the Board of Aldermen conclude their public process of reviewing and voting, the P & D Board respectfully submits this advisory report of its recommendations.

BASIS FOR RECOMMENDATION

This recommendation focuses primarily on those few areas where we take issue with the planning department's latest recommendations (***Petition #400-11 and #400-11(2) April 9, 2012; Revised Draft; ZAP Working Memo, April 9, 2012***). The vision for the new mixed-use centers elaborated in the Mixed-Use Amendment to the Newton Comprehensive Plan states that they should be "exemplars of excellence in place-making, being great places in which to work, live, shop, recreate, or just visit and be within". While we agree that most of the department's modifications will increase the potential for such an outcome at Riverside, we would go further in discouraging some remaining rigidities in the proposed zoning text, which may stifle creative solutions to achieving the objective of a "shining example of urban design", and would give, instead, as wide a berth as possible to the upcoming land use planning process to achieve it.

OBSERVATIONS AND RECOMMENDATIONS

- We agree with the recommended 580,000 square foot limitation and overall FAR of 2.4 on a site no smaller than 9 acres;
- We also agree with the 10% rule regarding square footage that can be *traded from* Category A (office), B (retail) or (C) (residential) and *traded to* office or residential, but think that still greater flexibility---up to 50% -an additional 10,000 square feet¹ as opposed to the additional 2,000 square feet now recommended---should be allowed when *trading to* retail if an equal amount of

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¹ One member dissented, voting instead for up to 25%, an additional 5,000 square feet.

square footage is taken *from* the other two categories, separately or combined. Although we acknowledge that some additional flexibility is obtained by the proposed rule allowing that accessory retail uses not count toward the 20,000 square foot cap, we think total non-ancillary retail square footage should have a more flexible envelope without increasing overall square footage on the site². In support of this position, we note below, by way of example, the following uses, the presence of which might contribute to efficiency from a trip reducing perspective and *vibrancy* from a place-making perspective, simply because the consumer needs they serve are universal:

- A small but appropriately sized market (e.g., Waban Market) could easily occupy between 5,000-8,000 square feet.
- In Massachusetts, the average sized CVS is 9,000 square feet; Walgreens and Brooks are about 12,000 square feet³.
- A 150 seat restaurant will occupy between 3,700 and 5,000 square feet, depending on its style.

But because all of these are uses that come with many location options for consumers, they don't necessarily draw much traffic from other parts of the city and region, or, as in the case of the restaurant, if they do, it is not at peak traffic periods. At these sizes, these uses alone could easily consume most of your retail allotment. Whether a retailer would decide to put a mini-mart and/or pharmacy or restaurant or two here strikes us as a market decision that might come up at a much later date, and should not be pre-empted by a prohibitive zoning policy put in place now.

Nor does suggesting an allowed trading allocation of up to 10,000 *additional square feet* for retail mean that such an outcome is even likely. Again, we merely do not wish to foreclose such possibilities and note, in any case, that individual retail uses over 5,000 square feet are subject to a discretionary special permit. In fact, should the flexibility rule come into play, the most *likely* outcome, assuming that we do not slip back into recession, is that additional square footage would come *from* residential and be added *to* office. Market reports over the last several years indicate a slowly accelerating increase in "large user" commercial space (non-retail) in the suburbs, and particularly along the prime stretch of Route 128 from "Burlington to Needham"⁴. Large users' space needs begin at approximately 100,000 square feet, the greatest number of large space seekers' needs cluster between about 175,000 to 250,000 square feet and go up more infrequently from there. Such space is usually in short supply. We are pleased to see that the 10% rule pretty much accommodates this current market reality.

- We agree with the planning department's recommendation to modify the requirement that *all* office uses be in one building and to require instead that the *majority* of the office space be within one building, thereby allowing some office space to be located elsewhere on the site and encouraging some integration of uses. Clearly this change will allow, as the department memo states, "more flexibility and encourage vertical integration within the site", but as in the case of retail, it doesn't legislate such an outcome. A single large user, should one come along, will almost certainly prefer a single building. But we applaud the fact that the modification cedes the best all around outcome to a dynamic land use planning process and doesn't allow the zoning text to foreclose it.

² By way of comparison, Waban, which is designated "Neighborhood Center" in the Comprehensive Plan, contains approximately 48,000 square feet of commercial space and is the second smallest in the city. (Night Caps Corner, at Lexington and River St, is the smallest "neighborhood center") The chairman of the EDC reports that the center in Waban contains approximately 33,000 square feet of retail.

³ Boston Business Journal Book of Lists 2005- "Average Store Size of Businesses in Massachusetts"

⁴ Colliers Meredith & Grew Market Reports 2010, 2011

- In the same vein, we examined the very sensitive topic of open space. Everyone wants as much as possible, including the members of our board, at least in the abstract. The developers have stated that the only way to get more is to allow them to build up, even though the cap on building square footage would remain the same. By the same token, the developer might be able to build lower, more humanly scaled buildings if one or more building footprints could be larger, albeit with some resulting diminution of open space. All but one on our board agreed that if some greater flexibility in the allocation of beneficial open space was given to the land use committee to determine, we might end up with a better site plan, better urban design and a better place. (Perhaps an outdoor *feature*-- think winter ice skating/summer frog pond and fountains-- might be worth several thousand square feet of grass).

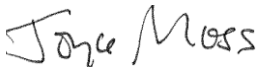
Our recommendation could take one of several forms, but its intent would be as follows:

- The percentage of beneficial open space would be specified within a range or left as is, but with the proviso that a deviation from the current minimum of 15% is allowable if and only if the Land Use Committee by a super majority is persuaded that the new site plan merits such deviation and the trade off provides a demonstrable benefit to the community.

OTHER ISSUES AND CONCERNS

- The board felt that a commitment to addressing handicapped accessibility issues should be more explicitly stated in zoning. Although staff said it was not clear if such language could be in zoning, the board felt some statement should be made and recommended that the following language (or close variant of it) be added to 30-24 (i) *Additional Special Permit Criteria*, after (12) Pedestrian and Neighborhood Considerations:
 - (13) Accessible Design: The proposed Mixed Use Development will give appropriate consideration and allow for sufficient flexibility to address issues of accessibility, adaptability, “visitability”, and universal design.
- The board notes that there is frequently confusion with the term “*publicly accessible*” as it appears in 30-24(i). So as not to confuse public accessibility with accessibility for persons with disabilities, our board recommends in 30-24(i) (5) Enhanced Open Space, the substitution of the term “*available for public use*” for the words “*publicly accessible*”.
- In all impact studies for the Riverside project, both pre and post construction, we urge the planning department to include the abutters in the scoping process, and even in the final choice of analyst in those specific cases when department professionals remain in doubt about which firm should be chosen. We believe that the more neighborhood interests have a voice in scoping processes in particular, the greater confidence they will have in the resultant studies and the accuracy of findings and conclusions contained within.

Respectfully submitted on behalf of the Planning & Development Board,



Joyce Moss, AICP
Chairman

Cc: Planning and Development Board
Candace Havens, Director of Planning and Development
Phil Herr
Stephen Buchbinder